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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/908,453	08/07/1997	GARY RUVKUN	08472/704002	9530

7590 07/25/2002  
CLARK & ELBING  
176 FEDERAL STREET  
BOSTON, MA 02110

EXAMINER

SHUKLA, RAM R

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 07/25/2002

32

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Applicant N .

08/908,453

Applicant(s)

RUVKUN ET AL.

Examiner

Ram R Shukla

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 July 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

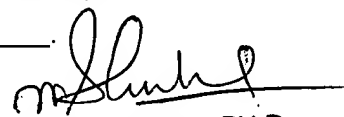
NOTE: \_\_\_\_\_.

3. ☒ Applicant's reply has overcome the following rejection(s): Enablement rejections of claims 8, 10-13 and 16.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 8, 10-13 and 16.Claim(s) objected to: None.Claim(s) rejected: 15, 19 and 20.Claim(s) withdrawn from consideration: 1-7, 14 and 21-28.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☒ Other: See Continuation Sheet

  
RAM R. SHUKLA, PH.D  
PATENT EXAMINER

## • Continuation of 2. NOTE

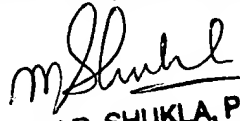
Continuation of 5. does NOT place the application in condition for allowance because: In view of the interview with the applicants and the inventor on February 21 and the after final response and amendment filed 7-2-02, the enablement rejection of claims 8, 10-13 and 16 has been withdrawn. It is noted that claims 19 and 20 remain rejected since they are dependent on claim 15. Claims 9 and 20 dependent on claim 16 only would be allowable. It is further noted that the enablement rejection of claims 15 and its dependent claims is maintained for reasons of record set forth in the previous office action of 3-26-02. Applicants arguments have been fully considered, however they are not found persuasive. Applicants have reiterated the same arguments as presented in response to the office action of 6-7-01. It is reiterated that while the cDNA of AGE-1 is taught in the specification and an artisan would be able to see change in mRNA levels by northern analysis, in the absence of the promoter of the AGE-1, the artisan would not be know whether the change in mRNA level was due to the effect of the compound on AGE-1 or some other gene which was affecting AGE-1 expression.

## Continuation of 10. Other:

(1) The second (or subsequent) supplemental reply filed on 3-7-02 and the 1.132 declaration filed 3-12-02 was not entered because entry of the reply would unduly interfere with the preparation of the Office action. See 37 CFR 1.111(a)(2). The examiner spent a significant amount of time on the preparation of an Office action before the reply was received. The examiner had completed a final action keeping in view the interview with the inventor and the applicants representative. The enablement rejection pertaining to claims 8, 10-13, 16, 18-20, 29 and 30 as set forth in the non-final office action of 6-7-01 was modified and a scope rejection was set forth after considering the discussion with the inventor. It is noted that the supplemental response and the 1.132 declaration reiterates the issues discussed during the telephonic interview. Furthermore, entry of the reply would require significant additional time in the preparation of a new Office action addressing the discussion in the supplemental response.

(2) The after final response filed 7-2-02 is not fully responsive to the office action of 3-26-02 since it does not cancel or take any other appropriate action regarding the withdrawn claims 1-7, 14 and 21-28 (see election in paper # 14; it is noted that withdrawn claims 1-7, 14 and 21-28 were inadvertently misnumbered as claims 1-4, 14 and 21-28 in previous office actions).

A responsive reply (under 37 CFR 1.111 or 37 CFR 1.113 as appropriate) to this Office action must be timely filed to avoid abandonment.

  
RAM R. SHUKLA, PH.D  
PATENT EXAMINER